
STATUTORY INSTRUMENTS

2012 No. 1868

The National Insurance Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012

PART 2

Provisions corresponding to Part 7 of the Finance Act 2004

Meaning of promoter

- 7.—(1) For the purposes of this Part a person is a promoter—
- (a) in relation to a notifiable contribution proposal if, in the course of a relevant business, the person (“P”) –
 - (i) is to any extent responsible for the design of the proposed arrangements;
 - (ii) makes a firm approach to another person (“C”) in relation to the proposal with a view to P making the proposal available for implementation by C or any other person; or
 - (iii) makes the notifiable contribution proposal available for implementation by other persons; and
 - (b) in relation to notifiable contribution arrangements, if the person (“P”) is by virtue of subparagraph (a)(ii) or (iii) a promoter in relation to a notifiable contribution proposal which is implemented by those arrangements or if, in the course of a relevant business, P is to any extent responsible for—
 - (i) the design of the arrangements, or
 - (ii) the organisation or management of the arrangements.
- (2) For the purposes of this Part a person is an introducer in relation to a notifiable contribution proposal if the person makes a marketing contact with another person in relation to the proposal.
- (3) In this regulation “relevant business” means any trade, profession or business which—
- (a) involves the provision to other persons of services relating to national insurance contributions, or
 - (b) is carried on by a bank, as defined by section 1120 of the Corporation Tax Act 2010⁽¹⁾, or by a securities house, as defined by section 1009(3) of that Act.
- (4) For the purposes of this regulation anything done by a company is to be taken to be done in the course of a relevant business if it is done for the purposes of a relevant business falling within paragraph (3)(b) carried on by another company which is a member of the same group.
- (5) Section 170 of the Taxation of Chargeable Gains Act 1992⁽²⁾ has effect for determining for the purposes of paragraph (4) whether two companies are members of the same group, but as if in that section—

⁽¹⁾ 2010 c. 4.

⁽²⁾ 1992, c.12; section 170 was amended by section 136 of the Finance Act 1998 (c. 36), paragraph 1 of Schedule 29 to the Finance Act 2000 (c. 17), section 75 of the Finance Act 2001 (c. 9), section 62 of the Finance (No 2) Act 2005 (c. 22), paragraphs

- (a) for each of the references to a 75% subsidiary there were substituted a reference to a 51% subsidiary, and
 - (b) subsection (3)(b) and subsections (6) to (8) were omitted.
- (6) For the purposes of this Part a person makes a firm approach to another person in relation to a notifiable contribution proposal if the person makes a marketing contact with the other person in relation to the proposal at a time when the proposed arrangements have been substantially designed.
- (7) For the purposes of this Part a person makes a marketing contact with another person in relation to a notifiable contribution proposal if—
- (a) the person communicates information about the proposal to the other person;
 - (b) the communication is made with a view to that other person, or any other person, entering into transactions forming part of the proposed arrangements; and
 - (c) the information communicated includes an explanation of the advantage in relation to any contribution that might be expected to be obtained from the proposed arrangements.
- (8) For the purposes of paragraph (6) proposed contribution arrangements have been substantially designed at any time if by that time the nature of the transactions to form part of them has been sufficiently developed for it to be reasonable to believe that a person who wished to obtain the advantage mentioned in paragraph (7)(c) might enter into—
- (a) transactions of the nature developed; or
 - (b) transactions not substantially different from transactions of that nature.
- (9) A person is not to be treated as a promoter or introducer for the purposes of this Part by reason of anything done in circumstances prescribed by the Tax Avoidance Schemes (Promoters and Prescribed Circumstances) Regulations 2004(3) as modified by these Regulations.
- (10) In the application of this Part to a proposal which is not a notifiable contribution proposal or arrangements which are not notifiable contribution arrangements, a reference to a promoter or introducer is a reference to a person who would be a promoter or introducer under paragraphs (1) to (9) if the proposal were a notifiable contribution proposal or arrangements were notifiable contribution arrangements.

358 and 375 of Schedule 3 to the Corporation Tax Act 2009 (c. 4), paragraph 242 of Schedule 1 to the Corporation Tax Act 2010 (c. 4) and S.I. 2010/2902.
(3) S.I. 2004/1865; amended by S.I. 2004/2613.